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10 IN THE UNITED STATES DISTRICT COURT  
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
12 SAN FRANCISCO DIVISION

13 **IVAN KILGORE,**

Petitioner,

15 v.

16 **J. WALKER, Acting Warden,**

Respondent.

C 07-5124 SI

**RESPONDENT'S STATEMENT OF  
OPPOSITION TO REQUEST FOR  
FUNDS**

19 Petitioner has requested that this Court authorize funds of up to \$5,000 for him to obtain  
20 the transcript of his 1997 Oklahoma trial, which resulted in a conviction of manslaughter.<sup>1/</sup>  
21 Respondent opposes the request because the parties already have copies of the transcript.

22 Petitioner's California Supreme Court habeas corpus petition clearly indicated that the  
23 parties obtained the Oklahoma transcript during trial on March 6, 2003. *See* Petition, attached  
24 Petition for Writ of Habeas Corpus at 13. Petitioner's petition for review actually summarized the  
25 testimony petitioner had given in the Oklahoma case. Petition, attached Petition for Review at 6-7,  
26 citing Exh. 14. Petitioner himself cites the Oklahoma transcript in the current federal petition in his

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28 1. Petitioner made the request in an ex parte motion, which we have not reviewed.

1 argument that trial counsel was ineffective. *See* Petition, Supplemental Memorandum of Points and  
2 Authorities at 8, citing “Oklahoma trial testimony at page(s) 37-45.” While it is unclear whether  
3 petitioner currently has the Oklahoma transcript in his possession, it is clear that he can obtain it  
4 from appellate counsel without receiving additional funds from the federal court.<sup>2/</sup> Accordingly, the  
5 request for funds should be denied.

6  
7 Dated: May 30, 2008

8 Respectfully submitted,

9 EDMUND G. BROWN JR.  
Attorney General of the State of California

10 DANE R. GILLETTE  
Chief Assistant Attorney General

11 GERALD A. ENGLER  
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13  
14 **/s/ Peggy S. Ruffra**

15 PEGGY S. RUFFRA  
16 Supervising Deputy Attorney General  
17 Attorneys for Respondent  
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27 2. We have requested from our archives but not yet received the Attorney General’s state  
28 court file. If the Oklahoma transcript is included in that file, we will provide it to petitioner.

**DECLARATION OF SERVICE BY U.S. MAIL**

Case Name: *Kilgore v. J. Walker, acting warden*

No.: **C 07-5124 SI (pr)**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

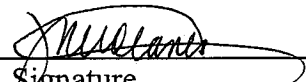
On **May 30, 2008**, I served the attached **RESPONDENT'S STATEMENT OF OPPOSITION TO REQUEST FOR FUNDS** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

**Ivan Kilgore**  
**V-31306**  
**California State Prison, Sacramento**  
**P.O. Box 290066**  
**Repressa, CA 95671**

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on **May 30, 2008**, at San Francisco, California.

**M. Otañes**

Declarant

  
Signature